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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,199	07/05/2002	Hans Bauer	P-45 MG	2377
28752	7590	05/02/2005	EXAMINER	
LACKENBACH SIEGEL, LLP LACKENBACH SIEGEL BUILDING 1 CHASE ROAD SCARSDALE, NY 10583			YAO, SAMCHUAN CUA	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,199

Applicant(s)

BAUER ET AL.

Examiner

Sam Chuan C. Yao

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10, 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07-05-02.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on pages 1-2 of the specification, it is suggested to remove all references to claims (i.e. "*claim 1*" on page 1 last line to page 2 line 1; and, "*method claim*" on page 2 line 6).

Appropriate correction is required.

Claim Objections

2. Claims 5 and 11 are objected to because of the following informalities: the phrase "*in any case,*" should be removed from claim 5 and rewrite claim 11 to read, the elastomeric adhesive is a multicomponent silicone adhesive substance. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9, 11, and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite, because a broad range or limitation followed by linking terms (e.g., preferably, maybe, for instance, especially) and a narrow range or limitation within the broad range or limitation is considered indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. In other words, does this claim positively requires making one

of brassieres, pantie-girdles, and sport pants? Moreover, the phrase *"the adhesive means"* does not have a positive antecedent basis. Is the recited adhesive means referring to or different from the recited *"elastomeric synthetic adhesive substance"*? Moreover, the limitation *"... when the adhesive has not yet set, the upper layer ... is placed onto it ..."* is somewhat confusing. This limitation appears to require that a placement of an upper layer onto an adhesive coated lower layer is optional. In other words, when the adhesive is cured, then it may not necessary to place an upper layer to an adhesive coated lower layer.

Claim 6 is indefinite because the limitation *"the adhesive ... corresponding addition parts are embedded ... no interfering abutment edges are generated"* (emphasis added) is confusing.

Claim 7 is indefinite, because the limitation *"... the recess (14) on the silk screen frame"* does not have a positive antecedent basis. Moreover, this claim is also indefinite, because it is unclear whether this claim positively require placing one of wire, hook closures and zipper closures to a recess on a silk screen frame.

Claim 8-9 are indefinite, because the limitation *"at the site at which the greater support force is to be attained, the widest adhesive substance bead (12) is applied"* is confusing. Claim 9 is indefinite, for essentially the same reason as claim 8. Equally important, does claim 9 require applying an additional adhesive to adhesive dots in areas where greater support force is desired?

Claims 14-15 are indefinite, because it is unclear what is intended by *"adhesive substance application (12) onto the undergarment takes place in silk screen*

processes". Does this claim require using a plurality of silk screen operations to apply an adhesive? Claim 15 is indefinite, for essentially the same reason as claim 14.

Claim 16 is indefinite, because it is unclear what the intended scope of the limitation "... *fabricated free of seams*". How can one form a seamless undergarment comprising a pair of adhesively bonded layers? Shouldn't an adhesively bonded edge portion of the undergarment intrinsically form a seam?

No art rejection is attempted for claims 9 and 16. The lack of a prior art rejection should not be construed as meaning that the claims would be patentable if corrected to overcome the 35 USC 112 rejection set forth above. No prior art rejection has been made since it would be improper to rely on speculative assumptions as to the meaning of the claims in this application.

The claims as presently recited are replete with 112 2nd paragraph problems, making them extremely difficult to understand. The claims will be examined as best understood by the Examiner. It is strongly suggested to amend all the recited claims to make them conform to US claim drafting practice.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 852,915 in view of Storti (US 3,327,707) and GB 2,316,353 A.

With respect to claims 1-4, EP '915 discloses a process of making a bra, the process comprises pattern coating a 1st portion (taken to be a lower layer) of a precut sheet with an adhesive so that a pre-selected area including edge seam region of the 1st portion is coated with the adhesive; bonding a 2nd portion (taken to be an upper layer) of the precut sheet to form the bra (col. 1 line 45 to col. 3 line 12; figures 1-3). EP '915 differs from claims 1-4 in that, EP '915 does not using an elastomeric adhesive to bond a lower layer and an upper layer.

However, it would have been obvious in the art to use an elastomeric adhesive in making a bra suggested by EP '915, because: a) it is old in the art to form a figure control garment such as "*brassieres*", where a pair of fabric layers are bonded together using an elastomeric adhesive as exemplified in the teachings of Storti (col. 1 lines 9-18; col. 3 line 36 to col. 4 line 67); and, it is also old in the art to form a elastic garment, where fabrics are joined together along the edges using an elastomeric silicone bonding agent (abstract; page 1 lines 5- 34; page 3 lines 1-27; page 6).

With respect to claims 5-7, it is old in the art to adhesively bond a pair of materials where one of the materials is placed on a support member which has a recess for receiving an adhesive. Moreover, it is also old in the art to provide a recess to a support member for receiving inserts. In addition, EP '915 teaches providing reinforcement line along a side edge portion of a bra (col. 3 lines 1-13). Furthermore, it is well known in the art to bond a pair of materials, where an

insert is embedded in an adhesive material. For these reasons, these claims would have been obvious in the art.

To advance positively the prosecution of this application, it is strongly suggested to incorporate the limitations in claims 5-7 to independent claim 1.

With respect to claim 8, it would have been an obvious expediency in the art to provide more adhesive in areas (i.e. seam regions) where a delamination strength is greatly needed. Moreover, it is conventional in the art to apply an adhesive bead along an edge portion of laminate. For this reason, this claim would have been obvious in the art.

With respect to claim 11, GB '353 teaches using an elastomeric silicone adhesive (abstract). Moreover, multi-component silicone adhesive is conventional in the art in order to increase a pot life of the adhesive. For this reason, this claim would have been obvious in the art.

With respect to claims 14-15, it is old in the art to form an undergarment where layers are adhesively bonded together using a silk-screen printed adhesive.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bell et al (US 4,701,964) is cited as a reference of interest showing a process of making an undergarment, where a screen printing operation is used to apply adhesive to bond layers together.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

Scy
04-26-05